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May 9, 2017

Comments on FCC WT Docket No. 17-79

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NOPR : Streamlining State and Local Review of Applications

1. There are policy and economic issues that should be considered in the larger context of encouraging deployment of Next-Generation Wireless Broadband technologies.
 - a. Economic versus Regulatory Impediments: Incumbent and new entrant providers naturally seek to recover and earn on their investments from the largest reasonable number of potential customers and in the shortest practical time period. The result is an empowered customer core surrounded by a subset of potential customers living/working in a digital desert.
 - b. Frequently those living in the digital desert are rural and tribal residents with more modest incomes and fewer residents per square mile. Tomorrow's economy is dependent on all Americans having access to educational opportunities available electronically. This requires ubiquitous reliable and affordable wireless and broadband accessibility.
 - c. Competitive markets foster innovation, affordability and reliable service. While the vast majority of Americans have access to such wireless and broadband services, a significant percentage of Americans do not live in competitive markets and consequently do not have reliable, affordable, service that meets FCC expectations.
 - d. We must be ever vigilant that we, as policy-makers and regulators, do not perpetuate a digital divide. While new technologies will always begin in high density, more affluent populations, we must ensure that the technological capabilities do not lag so far behind the more urban populace as to permanently disadvantage the lower density, less affluent populations.
 - e. *How can the Commission support responsible policies and investments in those less than prime economic markets?*

2. "Deemed Granted" Remedy Proposal: The majority of properly completed applications are considered and determinations made within the Commission's existing guidelines. When delays occur, they frequently result from public opposition to the applicant's proposals. There are responsible/best practices that can expedite the approval process that the Commission might include in a final order. Deemed Granted is a viable option in those cases where an applicant has responsibly attempted to meet the regulatory and public processes.
 - a. Applicants should meet with regulatory officials and staff prior to submitting a formal application to fully alert the regulators of the intention to file and to secure valuable information about expectations within the filed application.
 - b. Applicants should meet with representatives of local interest groups who are likely to intervene prior to filing application to secure valuable information about potential objections to the proposal.
 - c. Based on the above meetings, applicants should prepare alternative proposals and hold public open houses so the public may consider and comment upon the options. This is a common practice in the electric industry when proposing to site new transmission lines. It mitigates or reduces opposition to projects because public concerns are considered to the degree possible.
 - d. Included in the application should be information about the alternative proposals considered and reasons for the selection of the version in the application. For regulatory and public understanding, the supporting documents might include prospective benefits in terms of speeds, access, reliability, and other performance and cost factors to place the project's scope and cost in perspective.
 - e. Based on the above, formal applications should be filed. Regulatory staff should have no more than 15 working days to determine if the application is complete. If deemed complete, the regulatory "Shot Clock" should commence.
 - f. Unless the regulatory agency and applicant mutually agree on a delay in the shot clock time, the application shall be deemed approved if a decision has not been made within the statutory time.
 - g. While the Commission may not feel comfortable establishing pre-filing advisements, as suggested above, the Commission can issue a list of "Best Practices" or "Recommended Practices."
 - h. The Commission may also address the issue of incomplete applications being filed and either delaying the shot clock or causing conflicts about whether the application is complete, by endorsing as a "Best Practice" staff having a finite period of time to determine that the application is complete.
3. Possible changes in shot clocks: From an applicant's, regulator's, and member of the public's perspective, an easily understood and consistent shot clock is advisable. This is more of a political/public relations issue than a technical one. For example, members of the public may become confused if there are different shot clocks for towers of various heights. Confusion frequently then leads to anger against the applicant and the regulators, media editorials, and calls for action by elected officials.
 - a. To the extent reasonable, common shot clocks should be standardized.
 - b. Conditions attached to approvals should be based on commonly recognized conditions within the community (e.g. proximity to historic site), number of potential customers or performance

standards. These conditions should be well known prior to the applicant filing and not a thinly disguised process to force the applicant to withdraw the application.

4. Historic and Culturally Sensitive Areas: Often Tribal and local community governments designate broad, ill-defined areas as being of concern. The Commission may benefit from experiences by other public and private sector engagements on location issues. For example, many states have designated a quasi-public/private entity to locate and mark buried underground utility lines. These “Dig Safe” operations are notified when a utility or private individual desires to dig where utility lines may be located. The Dig Safe operator subsequently marks the areas in which underground lines are located. If the contractor or individual digs outside those marked lines, they should not strike a utility line and if they do, they are not held liable.

a. The Commission may wish to consider encouraging or authorizing tribal and state agencies to identify areas of cultural, historic, or other special interest that applicants for telecommunications siting permits should be aware prior to the applicant’s initial planning.

b. Commission may consider recommending that states and tribes designate a knowledgeable third party to identify the boundaries of cultural, historic, or other special interest sites. Such a third party would fulfill the functional role of the Dig Safe contractors by removing concerns about objectivity and needless delays.

c. Such designated areas shall not encompass an entire state, county, or other geographic or political boundary, but instead should only encompass the historic, cultural, or other special interest site with an appropriate buffer.

d. If a site is to be designated a special interest site, there must be sufficient documentation to justify such designation and the proposed buffer must be justified in terms of harm that might realistically come to the special site if specified types of development were to occur within the site or buffer. The SHPO or other state designated person should review and approve or revise the proposed boundaries and buffers.

e. If cultural, historic, or other sites are designated, applicants will not need to engage in dual application reviews unless applicant’s proposed project must locate within the special interest site, its reasonable buffer, or constitute an otherwise designated prohibited type of development.

5. The Commission is encouraged to expand its study of infrastructure deployment problems to that of broadband deployment, specifically conflicts resulting from incumbent providers’ business plans not including build-out to un- and under-served Americans and those potential providers utilizing public money to construct the necessary infrastructure. Such construction projects frequently include a partial overbuild of the incumbent.

a. Economics frequently determines whether infrastructure will be developed. The U.S. Postal Service was created to ensure that all Americans could receive mail and continues to have the responsibility of ensuring that all types of mail and packages will be delivered to all legitimate households.

b. The Rural Electrification Act was passed to ensure that all Americans would be provided electricity and the health, safety, and economic benefits resulting therefrom.

c. Congress, USDA, and the FCC have provided funds and policy incentives to telecommunications providers to build infrastructure with the objective that all Americans will have access to modern communications technologies.

d. A natural conflict exists between incumbent providers serving an economically viable customer base and the public policy-makers and potential providers recognizing that the economics of serving un- and under-served Americans relies on two factors:

1. Public financial support, and
2. Development of a competitive marketplace that includes customers served by an incumbent provider.

e. The Commission has a long history of encouraging development of competitive markets and Congress and federal agencies have a long history of providing public money to support deployment of services to persons living in lower population density areas. Such persons frequently are major contributors to the economic health of the nation as a whole because of the food and fiber produced.

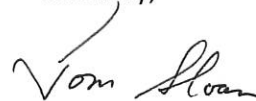
f. The Commission should consider expanding the existing docket or opening a new one to examine how competitive markets can be developed in areas in which service standards are not adequate to enable residents to utilize broadband on the same basis as urban residents.

g. Such a docket should also examine whether the expenditure of public money to serve un- and under-served Americans benefits the nation as a whole, as well as those affected residents.

h. Such a docket should also assess whether making incentives to incumbent providers to alter their business models such that adequate service standards and infrastructure is available to un- and under-served Americans would be more cost-effective than supporting alternative providers.

Thank you for considering my comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Sloan". The signature is fluid and cursive, with a large initial "T" and "S".

Dr. Thomas J. Sloan
Kansas' 45th District Representative